

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

\_\_\_\_\_  
IN RE: PHARMACEUTICAL  
INDUSTRY AVERAGE WHOLESALE  
PRICE LITIGATION

)  
)  
) MDL NO. 1456  
)

) CIVIL ACTION: 01-CV-12257-PBS  
) 05-CV-11795-PBS  
)

\_\_\_\_\_  
THIS DOCUMENT RELATES TO:

) Judge Patti B. Saris  
)

*State of Florida, et al. v. Alpharma,  
Inc., et al.*  
\_\_\_\_\_

) Chief Mag. Judge Marianne B. Bowler  
)  
)

**STATUS REPORT JANUARY 1, 2006**

Pursuant to the Court's June 17, 2004 Procedural Order, the undersigned counsel for Plaintiffs hereby submit the following status report to the Court listing the status of all motions to date.

Respectfully Submitted,

DATED: January 3, 2006

By /s/ Mark S. Thomas

Mark S. Thomas (FL Bar No. 0001716)  
Mary S. Miller (FL Bar No. 0780420)  
Bernabé A. Icaza (FL Bar No. 0647871)  
Assistant Attorneys General

**CHARLES J. CRIST, JR.**

**STATE OF FLORIDA ATTORNEY GENERAL  
OFFICE OF THE ATTORNEY GENERAL  
MEDICAID FRAUD CONTROL UNIT**

PL-01, The Capitol

Tallahassee, Florida 32399-1050

Telephone: 850-414-3600

Facsimile: 850-487-9475

**ATTORNEYS FOR THE STATE OF FLORIDA**

James J. Breen  
Alison W. Simon  
**THE BREEN LAW FIRM, P.A.**  
Post Office Box 297470  
Pembroke Pines, FL 33029-7470  
**ATTORNEYS FOR VEN-A-CARE OF THE  
FLORIDA KEYS, INC.**

Sherrie Savett  
Susan Schneider Thomas  
Gary Azorsky  
Joy P. Clairmont  
**BERGER & MONTAGUE, P.C.**  
1622 Locust Street  
Philadelphia, PA 19103  
Telephone: 215-875-5711  
Facsimile: 215-875-4604  
**ATTORNEYS FOR VEN-A-CARE OF THE  
FLORIDA KEYS, INC.**

Jonathan Shapiro  
**STERN, SHAPIRO, WEISSBERG & GARIN  
LLP**  
90 Canal Street  
Boston, MA  
**ATTORNEYS FOR VEN-A-CARE OF THE  
FLORIDA KEYS, INC.**

**MDL 1456 Status Report**  
**State of Florida, ex rel. Ven-A-Care v. AlphaPharma, Inc., et al.**  
**Case No.: 05-CV-11795-PBS**

**Complaint in Intervention**

On April 5, 2005, Plaintiffs filed a Complaint in Intervention styled *State of Florida v. AlphaPharma, Inc.*, Nos. 03-CA1165A, 98-3032F (Fla. 2d Cir. Ct.) in the Court of the Second Judicial Circuit in and for Leon County, Florida.

**Removal to Federal Court**

On July 20, 2005, Defendants removed this action to the United States District Court for the Northern District of Florida.

**Transfer to the District Court of Massachusetts**

On July 25, 2005, Defendant Sandoz, Inc., filed a notice of related action and requested that this case be transferred to the District Court of Massachusetts. Plaintiffs filed a Notice of Non-Opposition to the Defendants' request to transfer this case to the District of Massachusetts but retaining their request to have this case remanded to State Circuit Court. On August 25, 2005, the Judicial Panel on Multidistrict Litigation (JPML) transferred this case to this Court. On September 1, 2005, this Court consolidated this case with Civil Action No. 01-12257-PBS.

**Motion for Remand and Memorandum of Law in Support of Motion for Remand**

On August 18, 2005, Plaintiffs filed in the United States District Court for the Northern District of Florida a Motion for Remand and Memorandum of Law in Support of Motion for Remand to State Circuit Court. After this case was transferred to this Court, on September 14, 2005, the parties filed a Joint Motion for Consideration of Scheduling Order requesting that this Court adopt the parties' proposed scheduling order. On October 4, 2005, this Court granted the Parties' proposed scheduling order ("Order").

Pursuant to this Order, Plaintiffs filed a new Memorandum of Law substituting the Memorandum of Law previously filed in the United States District Court for the Northern District of Florida. Defendants filed their response on October 14, 2005.

**Pending Motions**

Plaintiffs' Motion for Remand and Memorandum of Law in Support of Motion for Remand to State Circuit Court is **currently pending** before this Court. No other motions are currently pending before this Court. Plaintiffs are attempting to have this motion scheduled for hearing along with the remand motions of other states. That hearing on the remand motions is currently scheduled for January 27, 2006.

CERTIFICATE OF SERVICE

I hereby certify that I, Jonathan Shapiro, an attorney, caused a true and correct copy of the foregoing Status Report to be served on all counsel of record electronically on January 3, 2006, pursuant to Paragraph 11 of Case Management Order No. 2, by sending a copy to LEXIS File & Serve electronic filing service. I hereby also certify that a copy hereof was furnished via U.S. Mail this 3<sup>rd</sup> day of January, 2006, to the following:

WAYNE A. CROSS  
MICHAEL J. GALLAGHER  
PAUL OLSZOWKA  
SHERYL DICKEY  
White & Case LLP  
1155 Avenue of the Americas  
New York, NY 10036  
Attorneys for Sandoz, Inc.

PETER ANTONACCI  
JONATHAN P. KILMAN  
GrayRobinson, P.A.  
301 South Bronough Street  
Suite 600 (32301)  
Post Office Box 11189  
Tallahassee, Florida 32302  
Attorneys for Novartis AG and Sandoz, Inc.

ROBERT J. MILLER  
Reed Smith LLP  
599 Lexington Avenue-28th Floor  
New York, NY 10022  
Attorneys for Faulding, Inc. and Mayne Group, Ltd.

DENNIS P. ORR  
GRANT J. ESPOSITO  
MICHELLE J. ANNUNZIATA  
Mayer, Brown, Rowe & Maw LLP  
1675 Broadway  
New York, NY 10019  
Attorneys for Novartis AG

STEPHEN A. ECENIA  
Rutledge, Ecenia, Purnell & Hoffman, P.A.  
Post Office Box 551  
215 South Monroe St., Suite 420  
Tallahassee, Florida 32301  
Attorneys for Alpharma, Inc., Alpharma,  
USPD, Inc. f/k/a Barre-National, Inc.,  
Barre Parent Corporation, Purepac Pharmaceutical Co.

JOHN R. FLEDER  
Hyman, Phelps & McNamara, P.C.  
700 Thirteenth Street, N.W. - Suite 1200  
Washington, DC 20005  
Attorneys for Alpharma, Inc., Alpharma, USPD,  
Inc. f/k/a Barre-National, Inc., Barre Parent  
Corporation, Purepac Pharmaceutical Co.

JAY B. SHAPIRO  
CHRISTOPHER L. BARNETT  
SAMUEL O. PATMORE  
Stearns, Weaver, Miller, Weissler, Alhadeff & Sitterson, P.A.  
Suite 200-Museum Tower  
150 West Flagler Street  
Miami, Florida 33130

/s/ Jonathan Shapiro

Jonathan Shapiro  
STERN, SHAPIRO, WEISSBERG & GARIN LLP  
90 Canal Street  
Boston, MA  
**ATTORNEYS FOR VEN-A-CARE OF THE  
FLORIDA KEYS, INC.**